

067-270669-14

FILED
TARRANT COUNTY
3/20/2014 4:12:42 PM
THOMAS A. WILDER
DISTRICT CLERK

No. 067-270669-14

JAMES MCGIBNEY AND	§	IN THE DISTRICT COURT OF
VIAVIEW, INC.	§	
	§	
VS.	§	
	§	
THOMAS RETZLAFF, LORA LUSHER,	§	TARRANT COUNTY, TEXAS
JENNIFER D'ALESSANDRO, NEAL	§	
RAUHAUSER, MISSANONNEWS,	§	
JANE DOE 1, JANE DOE 2, JANE	§	
DOE 3, JANE DOE 4 AND JANE DOE 5	§	67 TH JUDICIAL DISTRICT

PLAINTIFFS' MOTION TO DISMISS WITHOUT PREJUDICE

TO THE HONORABLE JUDGE OF SAID COURT:

JAMES MCGIBNEY AND VIAVIEW, INC., Plaintiffs in the above-entitled and numbered cause of action, files Plaintiffs' Motion to Dismiss Without Prejudice, and in support thereof would show the Court the following.

1) Plaintiffs are pursuing their claims in the United States District Court, Northern District of California, San Jose Division. See attached Exhibit "1." Plaintiffs therefore desire to dismiss this cause of action against Defendants, Thomas Retzlaff, Lora Lusher, Jennifer D'Alessandro, Neal Rauhauser, missanonnews, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4 and Jane Doe 5, Without Prejudice.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that this Court grant their Motion to Dismiss Without Prejudice, and that

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Plaintiffs be granted such other and further relief, at law or in equity, to

which they may show themselves justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that the foregoing document has been provided to all counsel of record, via facsimile on this 20th day of March, 2014:

Jeffrey L. Dorell
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Via facsimile (713) 524-2580

/s/ John S. Morgan
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 JAMES MCGIBNEY
 VIAVIEW, INC

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

JAMES MCGIBNEY, an individual, and VIAVIEW, INC, a corporation, Plaintiffs, vs. THOMAS RETZLAFF, an individual, NEAL RAUHAUSER, an individual, LANE LIPTON, an individual, and DOES 1-5, individuals whose true names are not known, Defendants.) Case No.: 5:14-cv-01059 HRL)) AMENDED COMPLAINT FOR) INJUNCTIVE RELIEF AND DAMAGES) FOR:) (1) TORTIOUS INTERFERENCE WITH) CONTRACTUAL RELATIONS;) (2) TORTIOUS INTERFERENCE WITH) PROSPECTIVE ECONOMIC) ADVANTAGE;) (3) INTENTIONAL INFLECTION OF) EMOTIONAL DISTRESS;) (4) DEFAMATION;) (5) PUBLIC DISCLOSURE INVASION OF) PRIVACY) DEMAND FOR JURY TRIAL
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Plaintiffs James McGibney (“Mr. McGibney”), an individual, and ViaView, Inc. (“ViaView”), a corporation (collectively, “Plaintiffs”), set forth the following causes of action against Defendants Thomas Retzlaff (“Retzlaff”), Neal Rauhauser (“Rauhauser”), and Lane Lipton (“Lipton”), and yet unnamed Does 1-5 (collectively, “Defendants”), and allege as follows:

INTRODUCTION

1. Beginning in or about June 2013 and continuing through the present, Defendants, acting individually and in concert, have engaged in a civil conspiracy to destroy Plaintiffs herein. Defendants have relentlessly harassed, defamed, cyber-stalked and invaded the privacy of Mr. McGibney, in a

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1 deliberate effort to harm his reputation and the reputation of his business, ViaView, Inc. In addition to
2 launching countless personal attacks which included threats of violence, Defendants agreed to and
3 carried out a plan to ruin Plaintiffs' relationships with advertisers and sponsors, costing Mr. McGibney
4 and ViaView hundreds of thousands of dollars of ad revenue and other income. Mr. McGibney asks this
5 court to right these financial and personal harms.

6 **PARTIES**

7 2. Plaintiff Mr. McGibney, at all relevant times mentioned herein, was and is now an individual
8 residing and domiciled in San Jose, California. He also owns residential property in Las Vegas, Nevada.

9 3. Plaintiff ViaView is a Delaware corporation with its business centers in San Jose, California and
10 Las Vegas, Nevada. ViaView is the owner and operator of the popular websites
11 <http://www.bullyville.com> ("BullyVille"), an anti-bullying website, <http://www.karmaville.com>
12 ("KarmaVille"), a website devoted to good and bad karma, <http://www.slingerville.com>
13 ("SlingerVille"), a website about tattoos, <http://www.cupidville.com> ("CupidVille"), an online dating
14 site, and <http://www.cheaterville.com> ("CheaterVille") and anti-infidelity website.

15 4. Plaintiffs are informed and believe and based thereon allege that Defendant Retzlaff was and is
16 now an individual residing and domiciled in Tarrant County, Texas.

17 5. Plaintiffs are informed and believe and based thereon allege that Defendant Rauhauser was and
18 is now an individual residing and domiciled in Washington, D.C.

19 6. Plaintiffs are informed and believe and based thereon allege that Defendant Lane Lipton was and
20 is now an individual residing and domiciled in Roslyn, Nassau County, New York.

21 7. Plaintiffs are informed and believe and based thereon allege that Defendants named herein as
22 Doe Defendants 1 through 5 are other individuals, the true names and locations of whom are unknown.

23 **JURISDICTION**

24 8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, as the parties in this case
25 are completely diverse and the matter in controversy exceeds, exclusive of interest and costs, the sum of
26 \$75,000.

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VENUE

9. A substantial part of the events giving rise to the claims sued upon herein occurred in San Jose, California.

10. As alleged below, Defendants knew that Plaintiff Mr. McGibney's residence and domicile were in San Jose California and they intentionally committed wrongs against him in San Jose, California.

11. Likewise, on information and belief, each Defendant knew Plaintiff ViaView was based in San Jose, California.

12. On information and belief, Defendants intentionally directed their conduct in order to cause harm to Plaintiffs' interests in San Jose.

13. Therefore, venue lies in the Northern District of California pursuant to 28 U.S.C. § 1391(b)(2), and this court's exercise of jurisdiction in this case is reasonable and appropriate.

FACTUAL ALLEGATIONS

I. Plaintiffs Operate Popular Anti-Bullying Website BullyVille and Anti-Infidelity Website CheaterVille.

14. Plaintiff Mr. McGibney is a business owner and former United States Marine. Mr. McGibney served tours of duty with Third Surveillance Reconnaissance Intelligence Group and Marine Security Guard Battalion. He was awarded the Navy Achievement Medal for computer security support to 128 U.S. Embassies. Mr. McGibney is the CEO and founder of his business, ViaView, which operates the websites BullyVille and CheaterVille (the "Websites"). ViaView has a board of directors.

15. The Websites aim to give a voice to those victimized by bullying (BullyVille) or romantic infidelity (CheaterVille) by providing a public platform upon which victims may tell their stories.

16. In line with the goals of the Websites, Mr. McGibney vigorously exerts social and financial pressure on owners, operators and purveyors of "revenge porn" websites with the intent of shuttering those websites. Wikipedia has a good definition of "revenge porn." It states: "Revenge porn is sexually explicit media that is publicly shared online without the consent of the pictured individual. [¶] Revenge porn is typically uploaded by ex-partners or hackers. Many of the images are "selfies" which are taken by the subject of the photo. The images are often accompanied by personal information, including the pictured individual's full name, links to Facebook and social media profiles or addresses."

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1 17. Revenge porn is now criminal in several jurisdictions, including California. Plaintiff McGibney
2 has been very successful in permanently shutting down numerous “revenge porn” sites and has been
3 credited with saving the lives of dozens of young girls. These girls were often underage and many were
4 contemplating suicide in part because their naked images landed on these despicable sites.

5 18. Like many Internet-based businesses, the primary revenue source for the Websites comes from
6 advertisers.

7 19. All ViaView sites average approximately one million individual and unique user hits per month.

8 20. Plaintiffs are and were at all times relevant to this suit parties to numerous contracts with
9 advertisers, including but not limited to:

- 10 a. Spokeo.com
- 11 b. Lijit.com
- 12 c. Advertise.com
- 13 d. Godaddy.com
- 14 e. Digit covers

15 21. Combined advertising revenue lost as the result of Defendants’ conduct exceeds \$19,300 per
16 month. This loss does not include other losses described herein. The calculations of loss for the effect
17 upon other advertisers that would have been drawn to the sites, or from the loss of clicks toward
18 advertisers that have remained, attributable directly to the direct harassment of Mr. McGibney or the
19 harassment of celebrity spokespeople described in detail herein, has ratcheted up the loss to at least
20 \$250,000.00 already, and that amount grows each day.

21 22. Prior to Defendants’ conduct complained of herein, Plaintiffs enjoyed a good working
22 relationship with his advertisers listed in paragraph 20 and most advertisers had been doing business
23 with ViaView continuously for two or more years. Visits to BullyVille and CheaterVille were growing
24 and neither site had problems with celebrity spokespersons wanting to distance themselves from his
25 websites. Rather, it was quite the opposite: many high profile celebrities have supported BullyVille over
26 the years.

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II. Retzlaff's Campaign of Harassment of, Defamation of, and Interference with Plaintiff's Business.

23. Defendant Thomas Retzlaff was a prolific user of these "revenge porn" sites. Plaintiff Mr. McGibney has identified at least 18 victims (mostly female) whose personal information and/or nude images Retzlaff has posted on revenge porn sites TEXXXAN.COM, MYEX.COM, ISANYONEUP.COM, ISANYONEUP.NET and YOUTGOTPOSTED.COM.

24. Moreover, Mr. Retzlaff has made horrendous comments accompanying these girls posts such as "I would like to suck on her tits while raping her mouth" and "Imma [*sic.*] break her teeths out with my dick and rape that booty." It has also been proven that Defendant Retzlaff posted his own daughter on numerous revenge porn websites. Within one site, where he uploaded naked images of his own daughter, he stated, "I wanna rape her, I will see u in El Paso Brittany."

25. As a result, a number of women victimized by these sites, and Retzlaff's conduct, have filed multiple lawsuits and restraining orders against Retzlaff in Texas. Plaintiff Mr. McGibney has been helpful in the causes against Retzlaff.

26. Defendant Retzlaff is also a convicted felon, having been imprisoned from 1998 through 2004, for sexual assault, burglary and unlawful possession of a weapon on elementary school property.

27. Once Mr. McGibney successfully shut down a few of these websites, including ISANYONEUP.COM, he immediately became a target, indeed an obsession, for Retzlaff.

28. Beginning in late October 2013, Retzlaff began targeting Plaintiffs using a vast array of social media accounts, across many different platforms, using many different aliases. These aliases, colloquially referred to as "sock puppets" or "socks," were intended to hide Retzlaff's true identity. They had the further purpose of creating the illusion of broad support for Retzlaff's extreme views while he carried out his stalking and cyber-terrorism. In actuality, Retzlaff's "public" support came primarily or entirely from accounts controlled and maintained by him and other co-defendants to this action.

29. The names and accounts Retzlaff used include, but are not limited to:

- a. The Twitter account @MrTexxxan;
- b. An account named LongJohnSilver on BullyVille;
- c. A Facebook account for user Scott Jewels;

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- d. A Facebook account for user Molly Santucci;
- e. The Twitter account @KellySwift4;
- f. A Facebook account for user Kelly Swift;
- g. E-mail alias James Smith: james.smith871003@gmail.com;
- h. TheDirty.com alias DickHertz,
- i. The Twitter account @PedoCaptain;
- j. The Twitter account @bright_Anon;
- k. The Twitter account @BV_Truther;
- l. The Twitter account @BV_Truth;
- m. The Twitter account @Klansmann;
- n. E-mail alias Dean Allen: deanallen5634@outlook.com;
- o. E-mail alias Dean Anderson: deananderson714@yahoo.com; and
- p. Wikipedia.org alias deadgoldfish.

30. Plaintiffs have taken numerous steps to confirm that it is Retzlaff behind each alias or “sock” listed herein, including but not limited to lawfully tracking internet protocol addresses¹ and matching email addresses between accounts. Mr. Retzlaff does not take significant steps to conceal his identity online besides using multiple names and accounts and a less-than-stable VPN² connection. Plaintiff is certain he can prove that all accounts complained of herein belong to Retzlaff. He is informed and believes that all accounts belong to Retzlaff and thereon alleges that Retzlaff uses the accounts to illegally harass, defame and stalk Mr. McGibney.

31. Plaintiffs reasonably anticipate that Retzlaff and the other Defendants will continue to create multiple aliases to harass, stalk, terrorize and defame Plaintiffs and their business partners in order to continue inflicting emotional and financial harm.

¹ Internet Protocol or IP addresses are unique addresses that show what computer is creating the packets sent through the internet.

² A VPN, or “virtual private network,” is a technology that allows a user to obscure his true IP address by encrypting that user’s traffic and routing it through a separate IP address.

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32. On October 30, 2013, Retzlaff publicly tweeted from the @MrTexxxan account (an account associated with revenge porn website www.texxxan.com) that he was “surprised no one has shot them fools yet. lots of crazy ppl in the world off their meds” Based upon the context, it is clear that Retzlaff was referencing Mr. McGibney and other people associated with ViaView.

33. The @MrTexxxan account has since been suspended by Twitter.

34. On November 2, 2013, Retzlaff, posting using alias “LongJohnSilver,” wrote several paragraphs in the comments section of an article published on BullyVille targeting Mr. McGibney, stating, **“If I was listed on his website I would put a bullet in his head.** It’s as simple as that. . . . You walk up behind him at a Wal-mart or whatnot, you shot [sic] him and take off, dump the gun in Lake Mead or somewhere and you’re go [sic] to go. **So go ahead James, keep it up.** Sooner or later you’re going to step on the wrong set of toes and you’re going to come across a real life tough guy, not an internet tough guy like a Hunter Moore,^[3] and **it’s gonna cost you and your family your lives.”**

35. On November 2, 2013, Retzlaff replied to a comment on BullyVille with his “LongJohnSilver” alias “Crazy people do not care if they get caught. **They will kill you** regardless as to the consequences to them because they are crazy. So while it’s all well and good that the FBI will eventually catch them (assuming they’re not one of the 40% who literally get away with murder), it does you little good **if you’re the dead guy or the dead family.”**

36. On or around November 3, 2013, Retzlaff, using alias “Scott Jewels,” wrote in the comments section of an article discussing a lawsuit filed by a stalking victim:

a. “James McGibney at BullyVille is a lying piece of human garbage.”

b. “Obviously [a reality TV star’s]⁴ and Bullyville’s allegations are a complete lie. That f@ggot who runs BullyVille, James McGibney was screaming and hollering about how he (McGibney) was going to get Jon and all of his supporters and how Jon was a

³ Hunter Moore is a well-known personality who pioneered the “revenge porn” website genre on his site, isanyoneup.com. Mr. McGibney secured a \$250,000 judgment against Hunter Moore for conduct similar to that alleged here. Moore is currently under federal indictment for hacking conspiracy charges.

⁴ McGibney became involved in the defense of a woman when she was viciously attacked by people over the internet. The comments referenced in paragraph 36 reflect his involvement in that suit.

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thief and physically abused [the mother] and all sorts of nonsense. I hope Jon sued McGibney and his homo attorney to death.”

c. “James McGibney is a lying homosexual.”

d. “James and Christina McGibney live at [redacted for safety], they own a revenge porn website Cheaterville.”

37. On the same website, at around the same time, Retzlaff posted the name of Mr. McGibney’s wife and their home address a second time.

38. On the same website, Retzlaff amplified his harassment by also using the alias “Molly Santucci,” agreeably replying to posts by “Scott Jewels.”

39. On November 15, 2013, Retzlaff again used the alias Molly Santucci to directly contact DJ ASHBA via Facebook. Mr. Ashba, as is described below, is a musician and celebrity spokesperson for BullyVille. Mr. Ashba was falsely told that CheaterVille is a “revenge porn website” and Retzlaff, via “sock” accounts encouraged DJ ASHBA to “remove [his] endorsement and end [his] relationship with revenge porn BullyVille!!!!!!”

40. On the same day, Retzlaff, using Twitter alias @KellySwift4, tweeted a similar statement to Mr. Ashba: “@DjASHBA Why do you support revenge porn w/ ur BullyVille endorsements? Don’t u know BV runs Cheaterville revenge porn site too?!”⁵

41. Mr. Ashba is a musician with a world-famous rock group. His endorsement created a lot of interest in BullyVille from advertisers new and old. Plaintiffs estimate he drove hundreds of thousands of visitors to BullyVille every month.

42. After receiving these and other unwanted messages from Retzlaff, and learning that Retzlaff was convicted of a felony and served time in prison, Mr. Ashba became fearful for his safety and the safety of his family.

43. Mr. Ashba has reduced his role in BullyVille significantly as a result of Retzlaff’s conduct and because Mr. Ashba has concerns for his personal safety that he did not previously have.

⁵ BV is an abbreviation for BullyVille and Retzlaff uses it frequently to reference both the site and Mr. McGibney himself, or both.

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1 44. Plaintiffs estimate the loss of Mr. Ashba as a prominent sponsor has, and will continue to, cost
2 Plaintiffs at least \$9,300 per month in advertising revenue as a result of fewer site visitors and
3 significantly less interest from new advertisers.

4 45. Retzlaff has not only harassed Mr. Ashba in connection with his campaign against Mr.
5 McGibney. He has harassed ViaView's PR firm, Lexicon Public Relations and celebrity Becca Tobin
6 from the show GLEE that airs on FOX. Each distanced themselves from BullyVille due to safety
7 concerns caused by Retzlaff's harassment campaign. This has caused an additional loss of revenue for
8 ViaView.

9 46. Again on November 15, 2013, using Twitter alias @Doxing_McGibney,⁶ Retzlaff publicly
10 tweeted Mr. McGibney's wife's name and their Las Vegas address. Retzlaff then tweeted Mr.
11 McGibney's San Jose address.

12 47. On November 15, and November 26, 2013, Retzlaff, using email alias James Smith, sent
13 harassing e-mails to blogger Adam Steinbaugh. Steinbaugh and McGibney worked together to shutter
14 revenge porn websites. In these e-mails, Retzlaff threatened to release private information about Mr.
15 McGibney:

- 16 a. "I happen to work for a large multi-national company overseas, as I mentioned to you
17 before. As such, my HR Dept. has access to the LexisNexis Accurint LE Plus and
18 ChoicePoint CLEAR databases so as to fulfill all of our Govt contracts and regulatory
19 requirements. So if I were to say look up an Adam Steinbaugh or a James McGibney,
20 I would have access to a whole host of valuable personal, financial, and legal
21 information. What kind of car they drive, who they bank with, where they have lived
22 at for the past 20 yrs. (and who with), credit reports, traffic and arrest info, property
23 transactions, civil cases, any kind of hunting, fishing or drivers licenses, or trade
24 licenses, and just pages and pages worth of stuff. But not just on them, but on each of
25 their family members, too! And the family members of those family members."

26
27
28 ⁶ "Dox" is a common Internet abbreviation for "documents," usually referring to personal information. "Doxing" is the act of publishing such personal information.

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1 b. "And if that information on all those people found its way to a document hosting site,
2 well, that would be just too bad, wouldn't it? But then again, you guys started this
3 game first. So how would Mrs. McGibney feel to find her personal details doxed or
4 her family members doxed? Or Mr. & Mrs. Steinbaugh? You think they all want to
5 be involved in you guys' game of doxing people and ordering twitter followers to
6 'destroy their lives' like Bullyville and Cpt Obvious always call for?" [BullyVille and
7 its many followers do no such thing, unless you consider halting bullying or
8 shuttering revenge porn sites ruining someone's life, as Retzlaff apparently thinks.]

9 48. On November 28, 2013, Retzlaff, on the website radaronline.com, using alias Scott Jewels,
10 publicly wrote: "Now he [Mr. McGibney] throws rocks at random people from his Bullyville website.
11 McGibney also runs REVENGE PORN website Cheaterville. McGibney charges people \$199 in order
12 to remove their photos and posts. McGibney is filth."

13 49. That statement is false and, as with all of the others, it was made with the knowledge of its
14 falsehood and with actual malice. Neither Mr. McGibney, nor ViaView, charge anyone to remove their
15 posts from CheaterVille, nor do they allow pornography – or any nudity for that matter.

16 50. On that same date, and through his @mrtexxxan Twitter account, Defendant Retzlaff tweeted "**It**
17 **will be really funny seeing someone post pics of ur wife Christina when she is shopping at Smith's**
18 **with ur two kids.**"

19 51. On December 6, 2013, Retzlaff, using alias DickHertz, publicly posted on celebrity gossip
20 website TheDirty.com: "James & Christina McGibney run Bullyville website, a site that HATES Nik
21 and the Dirty. Yet McGibney and his wife also run revenge porn site CheaterVille! And they also work
22 with scam take Down Hammer site TruthInPosting.com to charge little girls \$199 to remove
23 Cheaterville pics and posts. Talk about hypocrites! McGibney and his wife scam girls with revenge
24 porn, but they hate Hunter Moore and Nik!!!"

25 52. This is another complete and intentional lie by Retzlaff. Users of CheaterVille have the option to
26 login and make their post invisible. Furthermore, CheaterVille adheres to all DMCA takedown requests
27 within 48 hours, and refers cases that cannot be resolved to an independent arbitration service called
28 TruthInPosting ("TIP").

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53. Defendant Retzlaff has claimed on multiple occasions that ViaView and McGibney own TIP, which is another false claim. TIP is an independent arbitration service, run by licensed mediators and attorneys. Neither Plaintiff owns TIP, nor do they “charge little girls \$199 to remove CheaterVille pics and posts” as Retzlaff falsely claims they do.

54. On December 11, 2013, Retzlaff, using Facebook alias Kelly Swift, publicly contacted Plaintiffs’ business partner Brickhouse Security, stating: “Why are you people advertising on a revenge pornography website? I find this VERY DISGUESTING!! [sic] You are helping to support the victimization of women and children!!! CheaterVille.com is a revenge porn website that charges girls \$199 to remove photos. Same with BullyVille.com, its [sic] all terrible and you should not advertise on there. YOU NEED TO PULL YOUR ADS NOW!!!!”

55. Brickhouse Security’s Facebook account replied: “Thank you for bringing this up to our attention. We certainly do not want to be associated with any websites that would damage our brand. We will look into the matter and take the necessary actions to prevent this from happening again. Thank you, Brickhouse Security Team.”

56. Shortly thereafter, Brickhouse Security pulled all ads from CheaterVille.

57. On December 17, 2013, Retzlaff, using Twitter alias @PedoCaptain, publicly tweeted at BullyVille’s Twitter account: “@BullyVille **I would like to bury a hatchet right in your fucking damn face.** Public info: [address redacted] – vegas [sic] ANYONE?????”

58. On or around December 26, 2013, Retzlaff, using Facebook alias Kelly Swift, publicly posted further accusations on the Facebook page of a BullyVille advertiser that Mr. McGibney was operating a “revenge porn” website.

59. On December 30, 2013 and January 7, 2014, Retzlaff, using E-mail alias James Smith, sent Mr. McGibney harassing e-mails which mentioned “advertisers . . . dropping you like a bad habit” and “celebrities [who] are runny [sic] away as fast as they can.” It continued: “You’ve got a business to run here and putting up crazy, irrational tweets isn’t going to make customers comfortable or advertisers happy.”

60. On January 15, 2014, Retzlaff, using Twitter alias @bright_Anon publicly tweeted: “[] Did u know that McGibney charges girls \$199 to remove their intimate photos and personal details?”

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1 Bullyville also works with his...” Defendant Retzlaff made claims that anti-bullying website BullyVille
2 was a “revenge porn website.” This claim is, of course, absolutely false and without any merit
3 whatsoever, was made with the knowledge of its falsehood and with actual spite, ill will and malice.

4 61. On January 16, 18, and 22 2014, Retzlaff, using E-mail alias James Smith, sent Mr. McGibney
5 further e-mails discussing his relationship with advertisers: “And is not calling an advertiser to complain
6 a perfectly legitimate form of expression? . . . The only person killing your advertising is you, sir. And
7 you damn well know it!”

8 62. The e-mails acknowledge Retzlaff’s intent to ruin Plaintiffs’ relationships with advertisers: “I
9 spent a total for 30 minutes – all together – with my complaints to your advertisers. That includes time
10 spent on hold. And look how obviously effective it has been!!”

11 63. On January 23, 2014, Retzlaff, using Twitter alias @BV_Truther, publicly tweeted:
12 “@BullyVille Yes, because getting into a pointless twitter fight w/ someone who has nothing to lose is a
13 winning strategy for ur family.” This was a response to a tweet from BullyVille which read, “Strong
14 people stand up for themselves but the strongest people stand up for others.” The header (description)
15 for @BV_Truther was “exposing the truth about Bullyville’s lies by calling HR Dept’s one at a time and
16 getting ads on revenge porn sites shut down as soon as they pop up!”

17 64. On February 2, 2014, Retzlaff, posting on an anonymous account, submitted pictures and text
18 disparaging Mr. McGibney on www.myex.com, an *actual* revenge porn website.⁷ The post was titled
19 “James McGibney is a lying hypocrite who cheats!!” and stated that Mr. McGibney “extorts money
20 from young girls and their families over the internet. He is the scum of the earth.”

21 65. This post, which created a web page titled “Naked Pics of James A. McGibney – Las Vegas –
22 Nevada: MyEx.com” appeared in Google search results for James McGibney, meaning that when
23 someone would search for information about Plaintiff McGibney, this false and defamatory post would
24 be listed in the results. The post did not in fact include any naked pictures.

25
26
27 ⁷ The very top of the front page of www.myex.com says “GET REVENGE.” It specifically hosts “Nude Photos” along with
28 names, ages, and locations of the subjects of these nude photos, which are posted without the subject’s consent. A clearer
violation of California’s revenge porn law, Penal Code § 653.2(a)(2), is barely imaginable.

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66. On February 8, 2014, Retzlaff, using E-mail alias Dean Allen, sent an incredibly lengthy e-mail to numerous members of ViaView's board of directors, falsely claiming that "Cheaterville.com is a revenge porn website that engages in the abuse of young women and girls (and men!) by posting their intimate photographs and personal information."

67. In this e-mail, Retzlaff ventured into extortion by stating that McGibney needed to delete all "Ville" websites and permanently delete all data contained within each website and his @bullyville twitter account or the attacks would continue.

68. In the same e-mail, Retzlaff admits knowledge that CheaterVille "does not post nude photos."

69. On February 8, 2014, Retzlaff, using alias @BV_Truth, falsely tweeted that Mr. McGibney had threatened him: "@Sarelya23 [known to be Lora Lusher] And how difficult is it to send yourself a nasty email and then claim that ur enemy did it? BV keeps sending ME death threats"

70. On February 9, 2014, Retzlaff, using Twitter alias @BV_Truth, tweeted: "I wonder what happened to all the advertisers on Bullyville & Cheaterville. Several months ago it used to be FILLED with ads."

71. Using Wikipedia.org account 'deadgoldfish,' Retzlaff repeatedly defaced Mr. McGibney's Wikipedia page, deleting facts about Mr. McGibney's biography and adding false statements as well. Retzlaff sometimes made dozens of edits per day. Wikipedia eventually banned Retzlaff's account and locked the user editing function on Mr. McGibney's page.

72. During this time period (October 2013 – present), Retzlaff posted numerous harassing and defamatory things on a now defunct blog at <http://itsabouttruth.wordpress.com>. His conduct included coordinating attacks against McGibney and ViaView with other blog members on ViaView advertisers. Retzlaff still operates an active blog dedicated to stalking and defaming Mr. McGibney and ViaView.

73. As recently as March 3, 2014, Defendant Retzlaff sent an email to the school principal of one of the board members children and caused such fear that the child has been removed from the school for her safety and for the safety of other children. The local Police Department in Orange County were immediately contacted and an investigation has been launched against Defendant Retzlaff. This is now the *fifth* police investigation launched against Thomas Retzlaff across the country (Las Vegas, Northern and Southern California, San Antonio and Fort Worth.)

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74. Even after the initial Complaint in this case was filed on March 10, 2014, Retzlaff has continued with the same harassment. In an email dated March 13, 2014, Retzlaff, using the alias Dean Anderson this time, restated his familiar refrain: "If you want the bleeding to stop, you need to IMMEDIATELY shut down ViaView, Bullyville, Cheaterville - and your twitter account @BullyVille (and the other accounts) and ensure that ALL of the documents, posts, and photos are totally destroyed and can never been seen or used again. As we are confident that McGibney will somehow keep trying to post this stuff and his d0x on people elsewhere (even though that is all ViaView property, right?) we will continue to hold you people personally responsible in the court of public opinion for things that keep on happening here."

75. As a direct result of Retzlaff's harassment of ViaView's board of directors and business partners, two potential investors in ViaView began to fear for their safety. This fear of Retzlaff caused these two investors, whose potential combined investment amount totaled \$250,000, to back out of the pending deal.

76. The FBI is aware of Retzlaff as numerous complaints have been filed through IC3 and local FBI offices throughout the Country. His harassing activities have been enjoined by several different courts in actions with different plaintiffs than are present herein, through multiple restraining orders.

77. The State of Texas has deemed Retzlaff a vexatious litigant. He has filed, by a court's estimate in 2006, between 50 and 60 lawsuits. Most of his lawsuits were prosecuted *in propria persona*. He is knowledgeable about the law to a certain extent, and often gives away his identity by discussing legal matters as he consistently frames issues by reference to Texas or Texas state law.

III. Neal Rauhauser's Initial Role.

78. Defendant Neal Rauhauser is a left-wing blogger/activist/self-admitted hacker engaged in a vicious, petty, prolonged and sustained attrition battle with a series of right-wing blogger/activists. His political activities inform and drive his actions in all other areas of his life. Rauhauser is obsessively online seeking to advance his personal agenda and the causes of the left. He is a sworn enemy of all that oppose his personal agenda. Even a perceived slight to Rauhauser's activities is cause for Rauhauser to declare war, and he has done so prolifically over the past few years, including a declaration in favor of destroying Mr. McGibney.

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1 79. Rauhauser has two outstanding warrants in New Jersey for criminal harassment, and one
2 outstanding warrant in Iowa for his failure to make over \$50,000 in court-ordered child support
3 payments.

4 80. Rauhauser is a close ally and associate of defendant Lane Lipton. On information and belief,
5 they often share accounts, in including the Twitter accounts @OccupyRebellion, @MissAnonNews,
6 @MissAnonNews_ and the BVFiles Wordpress site.

7 81. Rauhauser has a long and prolific history of cyber stalking, cyber harassment and “social
8 engineering.”⁸

9 82. In early-mid 2013, on information and belief, Rauhauser was one of the people in control of the
10 Twitter account @OccupyRebellion, a prominent account with many followers. This
11 @OccupyRebellion account was often used in the aforementioned battles with right-wing bloggers,
12 indeed, it was his most effective platform.

13 83. In mid-late 2013, after Mr. McGibney bought and took down the revenge porn site
14 isanyoneup.com, @OccupyRebellion began interacting with Mr. McGibney in a positive and prosocial
15 way.

16 84. After Mr. McGibney became involved in defending a reality TV star being viciously harassed
17 online, @OccupyRebellion turned on Mr. McGibney and began targeting Mr. McGibney with
18 harassment.

19 85. Other Twitter accounts operated by independent people saw @OccupyRebellion’s harassment of
20 Mr. McGibney as unjust, and retaliated against @OccupyRebellion.

21 86. As a result, the @OccupyRebellion account is no longer active, and Rauhauser lost his most
22 powerful platform. On information and belief, Rauhauser blames McGibney for this loss. He carries
23 that grudge forward to this day. @OccupyRebellion was vital to his anonymous attacks on right wing
24 bloggers, and Rauhauser, on information and belief, carries a grudge.

25
26
27 ⁸ Social engineering involves lying and tricking someone to get them to do what you want. It is a nice name for using and
28 abusing people for one’s own ends. Social engineering is a confidence scam used to gain trust. It involves a lot of work in
duplicity, and necessarily calls for using several personality types, including but not limited to sock accounts.

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1 87. On June 10, 2013, using the @nrauhauser Twitter alias, Rauhauser sent direct messages to Mr.
2 McGibney's Twitter account containing a veiled threat of SWATting:⁹ "I want no misunderstandings on
3 this – you go after her [Defendant Lipton, one alleged operator of the @OccupyRebellion Twitter alias]
4 you might get a SWAT attempt, won't be me."

5 88. On November 2, 2013, using the @Kookpocalypse Twitter alias, a known and admitted
6 Rauhauser alias or sock, Rauhauser tweeted "@UnitePink @AubreyChernick Who wants to do the
7 honors on the Fedex to Becca Tobin?"

8 89. This message is an encouragement to others to join the agreement to contact BullyVille sponsor
9 and television star Becca Tobin and tell her lies about the site in order to convince her to break ties with
10 BullyVille.

11 90. Another time, Rauhauser tweeted from his account a screen shot purporting to be his desktop. In
12 the picture, one can clearly see a plan to attack Mr. McGibney, Becca Tobin and others associated with
13 ViaView. It was a threat.

14 91. Rauhauser shared screen shots of files on his computer more than once. All showed that
15 Rauhauser had plans to ruin Mr. McGibney.

16 92. In a private instant message chat that Rauhauser had with a third party in December 2013, he
17 announced his intent to cause damage to Plaintiffs: "So, McGibney, is there any reason not to lay waste
18 to [his] whole business?"

19 93. Rauhauser wanted to destroy Mr. McGibney. He took that plan and put it into action. The result
20 was the allegations contained herein, and much more.

21 **IV. Lane Lipton's Initial Role**

22 94. Lane Lipton is also a left-wing blogger involved in the attrition war with the series of right-wing
23 bloggers. She was a public school employee but was terminated in 2012 and now, on information and
24

25
26
27 ⁹ SWATting is the act of making a fraudulent phone call to a victim's local 911 operator. The SWATter tells 911 dispatch
28 that there is a situation (often a hostage situation) at the victim's place of residence, hoping that local law enforcement will
send a SWAT team to respond. The bigger the lie, the bigger the police response. The results can place a victim in extreme
danger of being mistakenly shot by police.

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1 belief, she spends most of her time on her numerous blog projects, using multiple identities and
2 viciously stalking and attacking people with whom she does not agree.

3 95. Like @OccupyRebellion and her admitted alias @qritiq, Lipton has an obsession with right-wing
4 blogger Lee Stranahan. Stranahan is a small-time blogger, a fringe player, and not widely known, but
5 Lipton, across all aliases, is obsessed with him. This obsession informs her use of the @qritiq,
6 @OccupyRebellion, @MissAnonNews and @MissAnonNews_ Twitter accounts. It is one of several
7 key identifiers.

8 96. Oddly, Lipton often takes the position as victim in these blogger wars, and asks that people
9 remove defamatory tweets about her. She does this across accounts, crying foul, threatening to sue and
10 then attacking in a manner quite similar across accounts, and quite similar to her conduct on the BVFiles
11 blog.

12 97. Lipton segregates her personas rather well. For example, her @LaneLipton account uses her real
13 name and is fairly polite, and largely uninvolved in arguments. This is the public persona that she
14 wishes to display. @qritiq is a milder and less vitriolic than her full-blown “attack” accounts. That
15 account, which was a sock account until it got “doxed,” and Lipton openly admitted it was her, got
16 involved in the same types of controversies with the same general groups of people, but was usually
17 prone to playing the victim and was not entirely antisocial. The @OccupyRebellion, @MissAnonNews
18 and @MissAnonNews_ accounts were almost sociopathic in their attacks when she was tweeting from
19 it. The account stalked, doxed, threatened, menaced, smeared, and generally harassed in an unmitigated
20 fashion. That was the true prize fighter in both Lipton and Rauhauser’s arsenal. And after one fight
21 with Mr. McGibney over a reality TV show, it lost all credibility and then was suspended and lost
22 entirely.

23 98. The patterns of @qritiq and the anti-social accounts track with each other as it relates to Mr.
24 McGibney. For example, after @occupyrebellion got mad at Mr. McGibney for sticking up for an
25 embattled reality TV star, @qritiq began casting stones at Mr. McGibney from her Twitter account as
26 well. The two attacks were two days apart in August 2013.

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1 99. @qritiq also interacted with all of Mr. Rauhauser's accounts on a regular basis, and tweeted
2 consistently about Mr. McGibney. She also interacted regularly with her sock accounts
3 @OccupyRebellion, @MissAnonNews and @MissAnonNews_

4 100. That Lipton is @qritiq is not in doubt. Besides her admission, her ex-boyfriend
5 repetitively states how he dated Lane Lipton, aka @qritiq. He publishes this statement to anyone that
6 will listen.

7 101. @qritiq also has a close association to Rauhauser. They like the same things, tweet to
8 each other, and attack opponents together. They share political views and enemies, including Mr.
9 McGibney. They appear to be the tightest of allies.

10 102. Likewise, Rauhauser and @qritiq often loop @OccupyRebellion, @MissAnonNews and
11 @MissAnonNews_ into their conversations, such that they might have agreement and harmonization
12 throughout accounts. Though it is the two of them talking to themselves, it looks like more people.

13 103. On information and belief, we are able to tell when Rauhauser uses the accounts and
14 when Lipton uses them. Rauhauser uses a calmer, more evil, deceptive and plotting persona, whereas
15 Lipton is overtly vicious and out of control.

16 104. The @OccupyRebellion account was lost in June 2013. After that, Rauhauser and Lipton
17 really geared up their revenge and began to attack Mr. McGibney in concert.

18 **V. Tweets from the @MissAnonNews and @MissAnonNews_ Twitter accounts, run by**
19 **Rauhauser and Lipton**

20 105. On information and belief, Rauhauser and Defendant Lane Lipton both possess the login
21 credentials for the @OccupyRebellion, @MissAnonNews and @MissAnonNews_ accounts. Twitter
22 has now suspended all accounts.

23 106. On information and belief, one or more of Doe Defendants 1 through 5 also possessed
24 working login credentials for the @OccupyRebellion, @MissAnonNews and @MissAnonNews_
25 Twitter accounts and are responsible for some of the statements detailed below.

26 107. Rauhauser and Lipton used the @MissAnonNews accounts to publish a great number of
27 harassing and defamatory tweets about Defendants. These statements were false, made with knowledge
28 of their falsehood, and were made with actual malice, spite and ill will. The statements below were

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1 ostensibly made to support the position that Mr. McGibney was not valuable in the shuttering of revenge
2 porn websites. These statements include, but are not limited to the following: On August 8, 2013,
3 @MissAnonNews tweeted a series of statements directed at Plaintiffs:

- 4 a. "Threatened to come after my family for calling non-existenet [sic] '14-year-old' a
5 whore who sets up men as 'pedos'?? @Radicalising #Anonymous"
- 6 b. "Don't any of you DARE compare what you do to 'To Catch a Predator' when those
7 men actually TRAVEL to go meet kids!! #Anonymous"
- 8 c. "I said for weeks this was a set up framing men as 'pedos.' Now u admit SHE
9 NEVER EXISTED. . . ."
- 10 d. "YOU SAID YOU KNOW HER IN REAL LIFE AND SHE'S SO
11 'TRAUMATIZED.' NOW YOU ADMIT THERE WAS NEVER ANY UNDERAGE
12 GIRL. #Anonymous"
- 13 e. "EVERY SINGLE PERSON LINKED TO BULLYVILLE IS A PEDOPHILE AND
14 CHILD ABUSER. YOU JUST ADMITTED SHE NEVER EXISTED.
15 #Anonymous"
- 16 f. "Either Bullyville is sexually exploiting minors. Or he's lying saying she never
17 existed in order to avoid LAWSUITS. #Anonymous"
- 18 g. "Bullyville and every single piece of trash around him are child abusers who give real
19 pedo hunters a bad name. #Anonymous"

20 108. On August 26, 2013 the account tweeted the following:

- 21 a. "People have the God given RIGHT to tweet, comment, and write whatever the they
22 [sic] damn well please without Bullyville threatening to kill them."
- 23 b. Neither Mr. McGibney, the personnel at ViaView or any staff at BullyVille ever
24 threatened to kill anyone. That statement is false.
- 25 c. On August 27, 2013 that account posted the false and defamatory tweet: "Child
26 predator Bullyville started threatening the lives of the people who accused
27 AnonChimp SECONDS after hearing the story."
28

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- 1 d. One minute later, it tweeted: "If you're a friend of Bullyville, you can rape whoever
2 you want. He'll start threatening to kill the accuser."
- 3 e. On January 27, 2014, @MissAnonNews_ tweeted the following series of statements,
4 directed at Mr. McGibney:
- 5 f. "Bullyville's sock talking about 'free speech' again like he knows what it means. If
6 only someone could stick a rifle in his mouth."
- 7 g. "For two years pedophile James McGibney has been libeling a woman saying she
8 CHEATED on her EX-husband with her FATHER."
- 9 h. "If that was the case, the father would have been RAPING her. But according to
10 'pedo hunter' Bullyville, rape & incest is now = AFFAIR."
- 11 i. "Bullyville and his minions have been threatening to have people raped & murdered,
12 stalking their children & getting people fired from jobs."
- 13 j. "Only a deadbeat such as BV would go after someone's job & livelihood when he's
14 never worked a day in his life & relies on others for money."
- 15 k. "Blackmailing & extorting hundreds of dollars from people to take down the libel
16 about them from his revenge porn sites. He then re-posts."
- 17 l. "Free Speech?? Then why sue Hunter Moore for calling you a pedophile? YOU ARE
18 A PEDOPHILE. You prove it every fucking day."
- 19 m. "James McGibney is 100 times worse than Hunter Moore. Moore at least admits
20 what he does. McGibney exceeds Moore."
- 21 n. "McGibney & the trash around him constantly falsely accusing people of being
22 'pedophiles' but he has the gall to sue when they call him one."
- 23 o. "SUE ME CUNT. You can't. It will only get worse for you and your hooker wife
24 Christina Marie Orduna McGibney."
- 25 p. "You would have to pay your lawyers to come find me. I can get them pro-bono."
- 26 q. "JAMES MCGIBNEY IS A PEDOPHILE. [¶] JAMES MCGIBNEY IS A
27 PEDOPHILE. [¶] JAMES MCGIBNEY IS A PEDOPHILE. [¶] JAMES MCGIBNEY
28 IS A PEDOPHILE."

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1 r. “Mr. McGibney, we found an empty email account tied to her Twitter account. You
2 also can’t arrest a Tor node.”¹⁰

3 s. “Mr. Gibney, we also suggest you grow a pair of balls, get a life of your own, and
4 leave these women alone. Loser.”

5 t. “That will be \$5,000 please. Have a nice day Mr. Gibney.”

6 109. On the same day, @MissAnonNews_ also tweeted the following:

7 a. “The Wikipedia article on James McGibney has been ‘protected’ (locked from
8 editing) to hide the truth about his fake degrees.” [retweeted from @rchPr1357]

9 b. “McGibney’s company was sued by a couple for defamation that was posted on
10 Cheaterville. Why was that removed from Wikipedia?” [retweeted from
11 @rchPr1357]

12 c. “You have bigger things to worry about than your Wikipedia page.”

13 d. “When this is all said and done with, the name James McGibney will be forever tied
14 to pro-rape, pro-pedophile, and pro-child abuse.”

15 110. On February 5, 2014, @MissAnonNews_ published the following statements, directed at
16 Mr. McGibney:

17 a. “Why do ‘pedo hunters’ hang around that bitch [Mr. McGibney]? What happened to
18 ‘saving’ children?”

19 b. “If that blonde is @TeenMomTruth, there are better looking women on cam shows
20 who can make pretend they like you.”

21 c. “Was @TeenMomTruth sending her nudes to Bullyville too? Is that why they all
22 ditched real pedo hunting to be that whore’s personal army?”

23 d. “Was Bullyville cheating on his wife with @TeenMomTruth????? Does Christina
24 Marie Orduna McGibney know?????”

25
26
27
28 ¹⁰ Tor is in internet randomizing software, used in part to obscure an IP address. Traffic exits a “node” instead of coming directly from one’s own computer. It provides a degree of anonymity.

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1 e. "Her driver's license says she's 29. She looks like she's 19. The men she falsely
2 accused of being pedophiles will sure like to know this."

3 f. "Is Bullyville in Los Angeles? There's a rumor he's moved. :-O . . ."

4 111. On February 6, 2014, @MissAnonNews_ posted the following series of tweets:

5 a. "The McGibney deadbeats run several revenge sites & extortion sites where they
6 blackmail people out of hundreds of dollars to take down posts."

7 b. "Even after they pay Bullyville, he re-posts it back up on hi [sic] sites. That extortion
8 company has now been hit with a RICO suit."¹¹

9 c. "One of the owners of that extortion site is a defendant listed as a John Doe. More
10 likely James McGibney."

11 d. "It would take too much work and efforts for deadbeats James & Christina McGibney
12 to get real jobs. They rely on EXTORTION."

13 e. "Why did James & Christina McGibney recently move from Nevada to California?
14 What are the cowards running from?"

15 f. "What a great day it would be if someone kicked down their door and permanently
16 silenced them. Two less revenge porn site owners alive."

17 g. "There isn't one single difference between Hunter Moore or the deadbeat
18 McGibney's. Moore at least admits to what he does."

19 h. "Bullyville and the pedophiles who masquerade as 'pedo hunters' still to this day
20 release the nudes of several men and women. REVENGE PORN."

21 i. "There is no difference between James & Christina McGibney and Hunter Moore.
22 The McGibney won't stop riding Moore's coattails."

23 j. "You think you could hide moving from Las Vegas to now living in California?"

24 k. "What will McGibney do when the lawsuits and RICO suit start rolling through? Get
25 wannabe 'Anons' after them again trying to silence them?"
26
27

28 ¹¹ Rauhauser is known to repetitively discuss filing civil RICO suits against his opponents.

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- 1 l. "Bullyville's revenge porn site is already being sued. The extortion site was hit with
2 a RICO suit."
- 3 m. "Why does Bullyville accuse people of threatening to kill him? I'd be surprised if he
4 survives to see the next decade."
- 5 n. "You don't do what the McGibney's have done for YEARS and think you won't get a
6 bullet between the eyes one day by one of their victims."
- 7 o. "What Moore does is to individual people. What the McGibney's do is to ENTIRE
8 families. The McGibney's are far worse than Hunter Moore."
- 9 p. "James & Christina McGibney refuse to get jobs and think they're entitled to other
10 people's money."

11 112. @MissAnonNews_ continued its series of tweets on February 7, 2014:

- 12 a. "Now a failed marine obsessed with stalking women who don't like [a reality TV
13 star] has joined forces with Stranahan the pimp and rape supporter."
- 14 b. "Because that's what being a 'pedo hunter' these days is all about."
- 15 c. "Oh hai, if your wife Christina Marie Orduna McGibney was gang raped, according
16 to your pal Stranahan it's her fault and not brutal."
- 17 d. "Bullyville and Stranahan also have porn in common."
- 18 e. "Stranahan shoots porn. Many with his wife Lauren. While Bullyville has several
19 revenge porn sites & his lawyer is a porn lawyer."
- 20 f. "Pedophile James McGibney has now recruited a white supremacist Sept. 11th
21 sympathizer AND another man who actually pimps his wife."
- 22 g. "What charming company you keep McGibney. Has Stranahan filmed your wife
23 getting gang raped by a Steubenville [Ohio] football team yet?"
- 24 h. "Dude, seriously stop obsessing over me. RT @Captien5 @Bullyville BTW didn't I
25 hear about some subpoenas for MissAnonNuts? #GettingPopcorn"
- 26 i. "Wasn't I going to also be named as a Jane Doe in a [reality TV] lawsuit too? Oh
27 that's right, NOTHING HAPPENED."
- 28

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1 j. “@MissAnonNews_ hahaha still talking about subpoenas?? Where did mines go?
2 Planet Pluto? #DoucheBagFameFaqs #SelfServingTools #Vile”

3 k. “You sure are a glutton for punishment wanting to be constantly humiliated by
4 women.”

5 113. Shortly before the @MissAnonNews_ account was suspended, it tweeted: ““I hate
6 Twitter and a little bit of me dies every time I login. I want to kill most people. Starting with BullyVille.
7 F_cking cesspool.”

8 **VI. Lane Lipton is Caught Logging In as an Administrator to a Fake BVFiles Website**

9 114. At some point in time unknown to Plaintiff, a person sympathetic to Plaintiff created a
10 website with a similar URL to bvfiles.wordpress.com. He used bvfiies.wordpress.com. When you
11 capitalize that second "i" it looks like an L (BVFiles.wordpress.com).

12 115. Then he installed analytics, as nearly all sites include, which record visitor's IP address
13 and time of visit.

14 116. He then modified the home page of the site to mimic the Wordpress login screen found
15 on most Wordpress sites at the address of /wp-admin.

16 117. Then a link to his site was shared. A BullyVille antagonist clicked the link and thought
17 the site was down so they tweeted the link and questioned why it was down.

18 118. Afterwards the following sequence of events occurred providing us with the IP address of
19 69.121.50.17 as being that of the blog's administrator.

20 a. Apparently bvfiles administrator (“admin”) sees the link claiming the site is down and
21 hits the parody site triggering the iplogger: Time 1:21:33pm from IP: 69.121.50.17

22 b. Apparently bvfiles admin sees the page is only loading the wp-admin (the fake login
23 page)

24 c. Apparently bvfiles admin then reloads the page 10 seconds later to confirm it's really
25 down: Time 1:21:43pm from IP: 69.121.50.17

26 d. Apparently seeing that it seems bvfiles.wordpress.com is truly down. bvfiles admin
27 then proceeds to login to fix the website - but not before getting behind a VPN since
28 now they were logging into the account and Wordpress.com will log their IP along

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1 with the account information. Time: 1:21 pm IP: 173.188.133.5 This is captured by
2 the site's form submission software that looks like the Wordpress log in screen – it is
3 not an IP logger.

- 4 e. The website administrator is able to determine that the two people hitting the site in
5 succession are in fact the same person because the IP logger doesn't show any hits
6 from IP:173.188.133.5. This means that the person using that IP got behind their VPN
7 after already loading the page, but before trying to sign in to their wordpress account.
8 If they had loaded the page after getting behind their VPN 173.188.133.5 would have
9 been captured by the IP logger pixel – not just by the form submission.

10 119. It was determined that this was Lane Lipton because the IP address: 69.121.50.17 -
11 comes back to Roslyn, NY the known home of Lane Lipton – an ardent Bullyville detractor, and that IP
12 series had been previously identified as Lipton's and @qritiq's. Lipton is the only loud and virulent
13 critic of BullyVille and McGibney known to be from the Roslyn, New York area, or anywhere close
14 thereby.

15 120. The recovery phone number for she.purrs@hotmail.com ends in 01.

16 121. On information and belief, Lane Lipton's phone number ends in 01. The probability of
17 any two phone numbers' two last digits matching is 1%.

18 122. The admin login info entered was: Email or Username: she.purrs@hotmail.com
19 Password: not captured Time: March 7, 2014 at 3:21 pm IP Address: 173.188.133.5

20 123. The she.purrs Hotmail account was a known or suspected email address for Lipton. A
21 subpoena will more clearly demonstrate this.

22 124. The Internet Service Provider ("ISP") for the IP address in question is the same ISP that
23 Lipton is known to use.

24 **VII. The Defendants Conspire to Damage Plaintiffs' Business on itsabouttruth.wordpress.com**
25 **and bvfiles.wordpress.com.**

26 125. There are only a small handful that are openly hostile to Mr. McGibney, ViaView,
27 BullyVille.com and CheaterVille.com. These people are all loud about their grievances. On
28

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1 information and belief, they also seek each other out, such that they may have strength in numbers.
2 Such was the case here.

3 126. In addition to the endless barrage of defamation and harassment conducted by Defendants
4 through their various “sock puppet” accounts on Twitter and elsewhere, Defendants also conspired to
5 ruin Plaintiffs’ relationships with advertisers using at least two different websites,
6 itsabouttruth.wordpress.com (now defunct) and bvfiles.wordpress.com (still active).

7 127. The bvfiles.wordpress.com site acknowledges that the @BV_Truth Twitter account
8 controlled by Defendant Retzlaff is also controlled by the administrators of bvtruth.wordpress.com.

9 128. The content of bvfiles.wordpress.com and itsabouttruth.wordpress.com is very similar.
10 Both sites are dedicated to personally attacking Mr. McGibney and his business.

11 129. The very first post on bvfiles.wordpress.com is a small post asking, “Is McGibney a
12 pedophile?” This poll was accompanied by statements strongly suggesting that Mr. McGibney is in fact
13 a pedophile. He is not. Defendants posted a picture of McGibney’s children under the Pedophilia
14 comments with the caption “are these children in danger?” Statements such as these, relating that
15 someone is a pedophile are defamatory *per se*.

16 130. The bvfiles.wordpress.com site contains a number of features demonstrating Retzlaff’s
17 involvement: (1) it uses the same “Internet Tough Guy” image associated with several of Retzlaff’s
18 aliases; (2) it consistently frames issues by reference to Texas or Texas state law.

19 131. Defendants use the bvfiles.wordpress.com site as a meeting place to discuss their
20 attempts to destroy Plaintiffs’ relationships with advertisers. Posts titled “The Economic Destruction of
21 James McGibney & ViaView” and “Comments from James McGibney’s Advertisers” detail the
22 Defendants’ attempts to ruin Plaintiffs’ business.

23 132. On the site, Defendants repeat almost verbatim the same personal and defamatory attacks
24 against Mr. McGibney that they directed at him from Twitter: CheaterVille is a revenge porn site; Mr.
25 McGibney is a pedophile; Mr. McGibney has a fake degree; Mr. McGibney is engaged in extortion.

26 133. Mr. McGibney earned a Bachelor's degree from Chadwick University while deployed
27 overseas as a United States Marine. Chadwick University was established in 1989, licensed and
28 approved by the state of Alabama, and offered accredited undergraduate and graduate degree programs

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1 in business and environmental studies. Years later, Mr. McGibney learned that Chadwick was a
2 “diploma mill.” Horrified by this revelation, Mr. McGibney decided to earn another Bachelor degree
3 and did so through Colorado Technical University. He then earned a Master’s in criminal justice from
4 Boston University. Furthermore, he attended Harvard Business School for his Executive Education. Far
5 from “engaging in academic fraud” as the defendants state, Mr. McGibney wrote his entrance essay to
6 Boston University about his experience of having to do his whole bachelor’s program over because of
7 issues with Chadwick University. Though defendants are aware of this, they perpetuate the narrative of
8 lies.

9 134. bvfiles.wordpress.com repeatedly uses the first person plural “we” when discussing the
10 site’s administrators. It is clearly run by more than one person.

11 135. On information and belief, Plaintiffs allege that the two sites were run by the same small
12 group of individuals, including the named Defendants. Specifically:

13 136. Defendant Lipton is an administrator of the bvfiles.wordpress.com site. She was
14 apprehended when she logged into a phony BVFiles site thinking it was hers, and her IP address was
15 captured. That IP address resolved to one known to be used by Lipton and @OccupyRebellion (which
16 later changed its name to @MissAnonNews).

17 137. The BVFiles website repeatedly states that they use the twitter account @BV_Truth.
18 That account, on information and belief, belongs to Retzlaff, but is used by the Rauhauser, Lipton and
19 Doe Defendants 1 through 5.

20 138. Defendant Retzlaff is also an administrator of the bvfiles.wordpress.com site.

21 139. On information and belief, Defendant Rauhauser is an administrator of the
22 bvfiles.wordpress.com site.

23 140. On information and belief, one or more of Doe Defendants 1 through 5 are administrators
24 or regular contributors to the bvfiles.wordpress.com site.

25 141. Subpoenas to wordpress.com for subscriber information will reveal IP address
26 information establishing the identities of the sites’ administrators as Defendants.

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1 142. The Wordpress site is presently active. It boasts passing 50,000 views, and closing in on
2 100,000. They boast daily views of 5,000 to 6,000 individual people. Thus, by their own admission,
3 defendants have easily satisfied the publication element for defamation.

4 143. As of March 13, 2014, the site was importuning people: "Let's Destroy ViaView /
5 Cheaterville One Lawsuit at a Time!" In that post, they sought to have people bring suits that are
6 contrary to the facts and law such that Plaintiffs would have to shutter their operations.

7 144. They state: "We want you people to comb through EACH AND EVERYONE of the
8 posts on Cheaterville.com for people who might want assistance in taking down James McGibney (who
9 we don't like) and his stupid revenge porn empire. We want you to Google these people and attempt to
10 make contact with them via Facebook, email, twitter or any other way that you can think of to let them
11 know that, yes, there is something that can be done about this problem and we have the resources and
12 willingness to help them!" (bold in the original)

13 145. Most posts on BVFiles have the parenthesis "(who we don't like)" after each mention of
14 Mr. McGibney. Thus, by their own admission, defendants are acting in concert with malice, spite and ill
15 will towards Mr. McGibney.

16 146. On March 12, 2014, BVFiles listed the name of each board member of ViaView with a
17 notation of whether they were "doxed" and reported yet, and if they were not, the post promised to do so
18 soon. As a result, the minor children of at least one of these board members have been publicly
19 attacked. One such attack falsely stated, "Nick the prick lives with his whore plastic wife at [location
20 redacted] who has a whore teenage daughter who fucks her father."

21 147. Another March 12, 2014 post is titled with the defamation: "James McGibney is a
22 criminal." It is a re-post of an earlier post, supposedly for all the new readers, and it falsely states that
23 Mr. McGibney has a fake diploma and committed academic fraud. In fact, Mr. McGibney has his
24 Master's Degree from Boston University and attended Harvard Business School for his Executive
25 Education.

26 148. The site further states that Boston University is conducting an academic fraud
27 investigation. Representatives of Boston University have confirmed to Mr. McGibney that this is not
28 true.

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1 149. In a post about counsel herein that went up right after this lawsuit was initially filed with
2 just Mr. Retzlaff as a named defendant, the administrators admit that there are four “regular”
3 administrators on the site.

4 150. One post falsely relates Mr. McGibney’s purported “illegal hacking activities.”

5 151. One post states that a board member of ViaView owns a revenge porn site.

6 152. Another post talks about a different ViaView board member owning a revenge porn site.

7 153. One post involves “doxing” the folks behind ViaView.

8 154. One post relates comments from advertisers that have left Plaintiff’s websites as a result
9 of the combined actions of defendants herein.

10 155. Several more posts falsely state Mr. McGibney has a fake college degree.

11 156. One post is simply titled “CheaterVille is a Revenge Porn Website.”

12 157. Another post queries: “Is James McGibney a Pedophile?” and comes to the conclusion
13 that because Mr. McGibney has not issued a public denial (he has denied this), he is a pedophile.

14 158. Posts that attack, harass, defame and injure plaintiffs go on and on. There are sometimes
15 multiple entries each day. It is clear that a lot of thought, effort and energy goes into maintaining a site
16 dedicated to trying to destroy plaintiff’s life and business. While this is a sad and pathetic use of a
17 human being’s time, it is the reality of this case. This conduct must stop. Accordingly, we sue.

18 **FIRST CAUSE OF ACTION**

19 **Tortious Interference With Contractual Relations**

20 159. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 158 of
21 this Complaint, and reincorporate them by reference as though fully set forth herein.

22 160. Plaintiffs are informed and believe and based thereon allege that Defendants had actual or
23 constructive knowledge that Plaintiffs had valid contracts with multiple Internet advertising companies
24 and with celebrity sponsors of BullyVille.

25 161. Plaintiffs are informed and believe and based thereon allege that Defendants formed an
26 agreement to work together in order to induce a breach or disruption of Plaintiffs’ contracts with
27 advertisers.

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1 162. In order to fulfill their intentions to damage Plaintiffs' business, Defendants repeatedly
2 and systematically made fraudulent and frivolous complaints to Plaintiffs' advertising partners and
3 sponsors.

4 163. As a direct result of Defendants' interference with Plaintiffs' contracts and sponsors,
5 those contracts were breached and/or disrupted.

6 164. Plaintiffs suffered general and special damages as a result of Defendants' contractual
7 interference, including, but not limited to, harm to Mr. McGibney's reputation, emotional distress, lost
8 earnings, and other pecuniary loss, all of which are in excess of \$75,000.

9 **SECOND CAUSE OF ACTION**

10 **Tortious Interference With Prospective Economic Advantage**

11 165. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 164 of
12 this Complaint, and reincorporate them by reference as though fully set forth herein.

13 166. Plaintiffs are informed and believe and based thereon allege that Defendants had actual or
14 constructive knowledge that Plaintiffs had stable business relationships with multiple Internet
15 advertising companies and celebrity sponsors.

16 167. Plaintiffs are informed and believe and based thereon allege that Defendants intended to
17 induce a disruption of Plaintiffs' business relationships with advertisers, and to damage the prospect of
18 future relationships with new sponsors and advertisers.

19 168. Toward that end, Defendants repeatedly and systematically made fraudulent and
20 frivolous complaints to Plaintiffs' advertising partners and sponsors.

21 169. As a direct result of Defendants' fraudulent contact with Plaintiffs' business partners,
22 those business relationships were disrupted and/or terminated.

23 170. Plaintiffs suffered general and special damages as a result of Defendants' interference
24 with their business relationships, including, but not limited to, harm to Mr. McGibney's reputation,
25 emotional distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

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THIRD CAUSE OF ACTION

Intentional Infliction of Emotional Distress (against Mr. McGibney)

171. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 170 of this Complaint, and reincorporate them by reference as though fully set forth herein.

172. Defendants' intentional and/or reckless campaign of harassment, death threats, and intentional and/or reckless disclosure of Mr. McGibney's sensitive personal information on various social media platforms was, as judged by a reasonable person standard, beyond the bounds of decency and is therefore extreme and outrageous conduct.

173. As a direct and proximate result of Defendants' conduct alleged herein, Mr. McGibney has suffered general and special damages including, without limitation, harm to Mr. McGibney's reputation, emotional distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

FOURTH CAUSE OF ACTION

Defamation (against Mr. McGibney)

174. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 173 of this Complaint, and reincorporate them by reference as though fully set forth herein.

175. Defendants' tweets and other social media were read by hundreds or thousands of others on the Internet, and constitute publication under the law.

176. Defendants' statements as described in Paragraphs 36, 39, 40, 48, 51, 54, 58, 60, 64-66, 71, 107-112, 129, 132, 144, 147, 150-152, and 155-157 of this Complaint are false and have a natural tendency to injure the reputation and financial interests of Plaintiffs.

177. Specifically, Defendants' accusations that CheaterVille and BullyVille are "revenge porn websites" were false and defamatory.

178. To state that someone is a purveyor of revenge porn subjects them to scorn by the community. Revenge porn is synonymous with extortion, with the exploitation of children and vulnerable communities, with unlawful computer hacking, and is also a crime in many jurisdictions.

179. Defendants' false accusations that Mr. McGibney is a pedophile or "pedo, were false. They also had a natural tendency to injury Mr. McGibney's reputation and business interests.

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180. Defendants' statements that Mr. McGibney has a "fake" degree from Chadwick university are false and were made with knowledge of their falsehood. Mr. McGibney earned a degree in good faith. When later Chadwick was exposed as a "diploma mill," Mr. McGibney went back to school at Colorado Technical University and earned his bachelor's degree.

181. Defendants' statements alleging that Boston University is conducting an academic fraud investigation into Mr. McGibney are false, as confirmed by the university itself.

182. Defendants' false statements about Mr. McGibney's education—his "fake" degree and the alleged fraud investigation—have a natural tendency to harm Mr. McGibney's reputation and business interests, as they impugn his honesty and integrity.

183. Mr. McGibney is informed and believes and based thereon alleges that even though he is not a "public official" or "public figure" (and thus a showing of "actual malice" is not required by the First Amendment), that Defendants nevertheless made the aforementioned statements either knowing they were false or in reckless disregard of the truth and with actual malice, hatred and ill will.

184. As a direct and proximate result of Defendants' conduct alleged herein, Mr. McGibney has suffered general and special damages including, without limitation, harm to his reputation, emotional distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

FIFTH CAUSE OF ACTION

Public Disclosure of Private Facts Invasion of Privacy (against Mr. McGibney)

185. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 184 of this Complaint, and reincorporate them by reference as though fully set forth herein.

186. Defendants' publication of Mr. McGibney's personal details, including the name of his wife and his home address, constituted a public disclosure of private facts and was highly offensive and objectionable, judged by the standard of a reasonable person. None of the defendant's postings at issue constitute opinions that are protected under the First Amendment of the United States Constitution. Instead, the Defendants postings are in fact verbal acts that are specifically intended to harass, intimidate, annoy, cause worry, terrorize and impose as much mental anguish and pecuniary harm as possible upon McGibney and as much pecuniary and business harm as possible to ViaView, Inc.

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1 187. The facts intentionally disclosed by Defendants were not of legitimate public concern.
2 They were personal, private, and wholly irrelevant to any other matter of public concern.

3 188. As a direct and proximate result of Retzlaff's conduct alleged herein, Mr. McGibney has
4 suffered general and special damages including, without limitation, harm to his reputation, emotional
5 distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

6 **RELATED LITIGATION**

7 189. Plaintiffs have filed a suit in Texas state court, but are in the process of withdrawing that
8 suit.

9 190. Plaintiffs are also seeking a temporary restraining order in California Superior Court for
10 the County of San Jose against Defendant Retzlaff.

11 **DEMAND FOR JURY TRIAL**

12 Plaintiffs hereby demand a jury trial for all causes of action and issues which may be determined
13 under federal and/or California law.

14 **PRAAYER FOR RELIEF**

15 Plaintiffs request that this court:

- 16 a. declare that Defendants have tortuously interfered with Plaintiffs' contractual relations and/or
17 prospective economic advantage;
18 b. preliminarily and permanently enjoin Defendants from continuing to interfere with Plaintiffs'
19 contractual relations and/or prospective economic advantage, including, but not limited to
20 taking bvfiles.wordpress.com offline;
21 c. award Plaintiffs general damages according to proof at trial;
22 d. award Plaintiffs special damages according to proof at trial;
23 e. award Plaintiffs exemplary damages;
24 f. award Plaintiffs attorneys' fees and court costs where appropriate;
25 g. grant Plaintiffs any other relief the court deems just, equitable and proper.
26

27 Dated: 17 March 2014

LAW OFFICES OF JAY LEIDERMAN

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By: /s/ Jay Leiderman
Jason S. Leiderman
Attorney for Plaintiffs
JAMES MCGIBNEY
VIAVIEW, INC

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